

THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ST. JOHN MISSIONARY BAPTIST
CHURCH, INC.

Plaintiff,

v.

GREAT AMERICAN INSURANCE
COMPANY

Defendant.

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Civil Action No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § § 1332, 1441 and 1446, Defendant Great American Insurance Company (“Defendant” or “Great American”) files this Notice of Removal and, in support thereof, shows:

1. Great American is the only defendant in the state court action styled *St. John Missionary Baptist Church, Inc. v. Great American Insurance Company*, Cause No. DC-16-08769, in the 162nd District Court of Dallas County, Texas (the “State Court Action”).

2. Plaintiff St. John Missionary Baptist Church, Inc. (“Plaintiff”) filed its Original Petition on July 21, 2016 in the State Court Action (the “Original Petition”). The Original Petition was not removable at the time of filing as it did not contain any allegation sufficient to determine the amount in controversy and, as such, Great American could not ascertain that the case was removable pursuant to 28 U.S.C. § 1446(b).

3. On October 5, 2016, Plaintiff filed its First Amended Petition in which it for the first time raised allegations regarding the amount in controversy from which Great American could ascertain that the case was removable pursuant to 28 U.S.C. § 1446(b)(3). This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)(1), and is

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one which may be removed to this Court pursuant to 28 U.S.C. § 1441(a), because the case is a civil action between citizens of different States, wherein the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

4. This case is an insurance coverage dispute involving ExecPro Nonprofit Management Liability Policy No. EPP2452813 (the “Policy”) issued by Great American to St. Johns Missionary Baptist Church. Plaintiff asserts causes of action against Great American for violation of the Deceptive Trade Practices Act, breach of contract, late payment of claim and money had and received. *See* Exhibit “1-H,” Plaintiffs’ First Amended, ¶¶ E.1 through 5 at pages 3 through 5. Plaintiff contends that Great American owes under the Policy certain amounts. *See* Exhibit “1-H,” Plaintiff’s First Amended Petition, ¶ D.

5. Plaintiff St. John Missionary Baptist Church, Inc. was and is at the time of this filing incorporated under the laws of the State of Texas and has its principal place of business in Texas. Under applicable law, therefore, Plaintiff (both now and when this action was filed) is a citizen of the State of Texas.

6. Defendant Great American was and is at the time of this filing incorporated under the laws of the State of Ohio and has its principal place of business in Ohio. Under applicable law, therefore, Defendant Great American (both now and when this action was filed) is a citizen of the State of Ohio.

7. Because Plaintiff is a citizen of Texas and Defendant is a citizen of Ohio, complete diversity of citizenship exists among the parties pursuant to 28 U.S.C. § 1332(a)(1), (c)(1) both now and at the time of the action’s filing.

8. Although Great American disputes liability, the amount in controversy requirement under 28 U.S.C. § 1332(a) is met by the amount of recovery sought by the Plaintiff. Specifically, the First Amended Petition expressly states that “Plaintiff seek [sic] monetary relief damages in excess of \$1,000,000.” *See* Exhibit “1-H,” ¶ D at page 3. In

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addition to the claimed actual damages, Plaintiff seeks recovery from Great American of statutory damages, exemplary damages and attorneys' fees. *See* Exhibit "1-H," ¶ H at page 6.

9. Consequently, the amount in controversy requirement under 28 U.S.C. § 1332(a) is satisfied by the total amount of recovery sought by the Plaintiff from Great American.

10. This Court therefore has original jurisdiction over this action under 28 U.S.C. § 1332(a), and removal of this action to this Court is proper under 28 U.S.C. § 1441.

11. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.1, true and correct copies of all documents filed in the State Court Action, including the First Amended Petition, are included in the Index of Documents attached hereto.

12. A jury was demanded in the State Court Action.

13. For these reasons, this action is properly removable from the 162nd District Court for Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division, such being the district and division where the State Court Action is pending.

14. Promptly after the filing of this Notice of Removal, Defendant shall give written notice of the removal to Plaintiff through its attorney of record and to the clerk of the state court as required by 28 U.S.C. § 1446(d).

15. Great American does not waive and specifically reserves any and all objections, exceptions or defenses to the First Amended Petition.

WHEREFORE, Defendant requests that this action now pending against it in the District Court of Dallas County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division, as an action properly removable thereto and seeks all other relief to which it may be entitled.

Respectfully submitted,

By: /s/Vincent J. Ansiaux

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**ATTORNEYS FOR GREAT AMERICAN
INSURANCE COMPANY**

CERTIFICATE OF SERVICE

On October 31, 2016, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure:

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**ATTORNEYS FOR PLAINTIFF ST. JOHN
MISSIONARY BAPTIST CHURCH, INC.**

/s/Vincent J. Ansiaux

Vincent J. Ansiaux